

**PROVIDING FOR LICENSING OF OPERATORS OF BEAUTY
SHOPS AND SCHOOLS AND CREATING STATE
BOARD OF EXAMINERS THEREFOR.**

H. B. No. 189.]

CHAPTER 116.

An Act to regulate the occupation of hairdressers and cosmetologists, to create a State Board of Examiners for the licensing of persons to carry on and to teach such practice, to insure the better education of such practitioners; to provide rules regulating the proper conduct and sanitation of hairdressing and beauty culture establishments and schools, so as to prevent the spreading of contagious and infectious diseases, and to provide for violations thereof; providing for distribution of moneys collected under this Act and making an appropriation; prescribing a penalty; providing a saving clause; repealing all laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. That it shall be unlawful for any person to engage in the practice or occupation of a hairdresser or cosmetologist or to conduct a hairdressing or cosmetological establishment or school, unless such person shall have first obtained a certificate of registration, and/or license as provided under this Act.

SEC. 2. That it shall be unlawful for any person, firm, or corporation to operate a beauty shop or beauty school within the State, unless such shop or school is at all times under the direct supervision of a registered hairdresser or cosmetologist.

SEC. 3. Any person who engages in any one or any combination of the following practices, to-wit: arranging, dressing, curling, waving, cleansing, singeing, bleaching, coloring, or any kindred work upon the hair of any person by any means, shall be construed to be practicing the occupation of a hairdresser.

(a) Any person who with hands, or mechanical or electrical apparatus or appliances, or by the use of cosmetological preparations, antiseptics, tonics, lotions or creams, engages in any one or combination of the following practices for remuneration or pay, to-wit: cleansing, beautifying, or any kindred work of the scalp, face, neck, arm, bust, or upper part of the body or manicuring the nails of any person, shall be construed to be practicing the occupation of a cosmetologist.

(b) Any person, firm, or corporation, who shall hold himself or itself out as a school to teach and train other persons in the art, business, or trade of hairdressing or cosmetology for remuneration or pay, as provided in this Act, is hereby declared to be a beauty culture school, and subject to the provisions and restrictions contained in this Act.

(c) Any person who engages only in the practice of manicuring the nails of any person shall be known as a manicurist.

(d) An operator is a person not as assistant who engages in or follows any of the practices of hairdressing and cosmetology as defined in this Act.

(e) An instructor is any person engaged in teaching any of the practices of beauty culture in a registered beauty school.

(f) A hairdressing or cosmetological shop is that part of any building where or whereupon hairdressing or cosmetology as defined in this Act are practiced.

SEC. 4. There is hereby created a State Board of Hairdressers and Cosmetologists consisting of three (3) members, each of whom shall be a hairdresser or cosmetologist, as defined in this Act, within thirty (30) days after this Act shall become effective, the Governor shall appoint the members of such Board; such members shall be at least twenty-five (25) years of age and shall have had at least five (5) years practical experience in the majority of the practices of hairdressing or cosmetology in Texas and shall be a citizen of the State; no member of the Board shall be a member of nor affiliated with any school of hairdressing or cosmetology while in office, nor shall any two (2) members of said Board be graduates of the same school.

(a) Each member of said Board shall serve a term of six (6) years, or until his or her successor is appointed and qualified, except in the case of the first Board, in which case one member shall be appointed to serve for a period of two (2) years; a second member shall be appointed to serve for a period of four (4) years; and a third member shall be appointed to serve for a period of six (6) years; and in making such appointments the Governor shall designate the respective positions to be filled by such appointments. The members of said Board shall take the oath provided by law for public officials. Vacancies shall be filled by the Governor for the unexpired portion of the term.

(b) The majority members of the Board shall constitute a quorum for the transaction of business. The Board shall prescribe the rules for its government and have a seal with which to authenticate its acts.

SEC. 5. The members of said Board shall annually elect from their members a President and shall annually appoint a Secretary who shall not be a member of the Board. The compensation of such Secretary to be fixed by the Board at not exceeding One Thousand Eight Hundred Dollars (\$1,800) per year and his or her necessary expenses actually incurred in the discharge of the duties of the office; providing, such expenses shall be allowed only if and when audited, approved and allowed by the State Auditor and Efficiency Expert. Such Secretary before entering upon the duties of the office shall give a bond signed by some surety company authorized to do business in Texas, in the sum of Ten Thousand Dollars (\$10,000), payable to the State of Texas, conditional for the faithful performance of his or her duties, such bond to be filed with the Secretary of State.

SEC. 6. The State Treasurer of the State of Texas is hereby designated as custodian of all revenues derived under the provisions of this Act, and all such funds shall be credited by the State Treasurer to the "State Board of Cosmetologists Fund."

SEC. 7. The members of the Board shall receive Ten Dollars (\$10) per day and actual expenses incurred in the performance

of their official duties, and shall in no one year exceed Two Thousand, Five Hundred Dollars (\$2,500), providing, such expenses shall be allowed only if and when audited, approved and allowed by the State Auditor and Efficiency Expert. The salary and expenses of the Board members and Secretary as well as all other expenses incidental to carrying out the provisions of this law shall be paid out of the fund in the State Treasury to the credit of the Texas Board of Cosmetology on requisition signed by the President and Secretary of the Board and the warrant of the State Comptroller.

SEC. 8. The said Board shall keep a record of its proceedings. It shall keep a register of applicants for certificates showing the name of the applicant, the name and location of his place of occupation or business, and whether the applicant was granted or refused a certificate. The books and records of the Board shall be prima facie evidence of matters therein contained and shall constitute public records.

SEC. 9. The Board shall hold regular meetings for the examination of applicants in the capital of the State, on the second Tuesday in January and July of each year, and at such other times and places as the Board may deem necessary, and such examination shall be conducted under the rules provided by said Board and shall include practical demonstration and written and oral tests in reference to the practices for which a license is applied for and such related subjects as the Board may determine necessary for the proper and efficient performance of such practices, and such examination shall include sanitation and hygiene, the use of cosmetics, the application of electrical and mechanical equipment and appliances, anatomy and dermatology, and such other kindred subjects as may be necessary and prescribed by the Board to determine one's fitness and qualifications as a hairdresser or cosmetologist.

SEC. 10. (a) The said Board shall, with the approval of the State Board of Health, prescribe such sanitary rules as it may determine necessary with particular reference to the precautions necessary to be employed to prevent the spread of infectious and contagious diseases, and it shall be unlawful for the owner or manager of any hairdressing or cosmetological shop or any school of beauty culture to permit any person to sleep in or use for residential purposes any room used wholly or in part as a hairdressing cosmetological establishment or school of beauty culture, and it shall be unlawful for any person, firm or corporation to practice as a hairdresser or cosmetologist, except in the homes of customers or in a bona fide established beauty shop wherein the requirements of the Board as to proper sanitary rules are complied with. Provided an operator may have a beauty shop in her home where the sanitary rules are complied with.

(b) All applications for examination and for license shall be accompanied by a health certificate issued by a licensed doctor

of medicine showing the applicant to be free from any contagious or infectious diseases as determined by a general examination and by a Wasserman or other laboratory tests.

(c) The said Board, with the approval of the Comptroller, shall have the authority to employ and fix the salary of such clerical help, and inspectors for the purpose of enforcing compliance with this law, as may be necessary. Provided however, that all of the expense of such help and inspectors shall be paid out of the funds derived from the fees provided for by this Act and not otherwise. And no salaries, compensation, and/or expenses provided by any part of this Act, shall in any event exceed the salaries, compensation, and/or expenses allowed for like service in the Comptroller's Department by the General Appropriation Bill.

(d) The said Board, or any duly appointed agent, shall have authority to inspect any beauty shop, beauty parlor, or school, at any time during business hours.

SEC. 11. It shall be competent for any person, firm or corporation to apply to the State Board of Hairdressers and Cosmetologists for a certificate of registration as a school of beauty culture upon the payment of One Hundred Dollars (\$100).

(a) No school of Beauty Culture shall be granted a certificate of registration unless it shall employ and maintain upon its staff a sufficient number of instructors, who shall be registered hairdressers or cosmetologists having had at least three (3) years practical experience and high school education or the equivalent thereof, and said instructors shall be required to pass an examination conducted by the Board of Examiners to determine their fitness as teachers, provided, however, that the examination of teachers shall not be required of persons who have been teaching the practice of hairdressing, or cosmetology for three (3) years prior to the passage of this Act; and shall maintain on its staff one Doctor of Medicine, as a consultant, who shall lecture monthly on sanitation, sterilization and the use of antiseptics consistent with the practical and theoretical requirements as to the classified occupations as provided by this Act, and shall possess apparatus and equipment for the proper and full teaching of all subjects of its curriculum; shall keep a daily record of the attendance of students; maintain regular class and instruction hours, establish grades and hold examinations before issuing diplomas, and shall require a school term of not less than one Thousand (1,000) hours to be completed in not less than six (6) months for a complete course of all or a majority of the practices of hairdressing and cosmetology.

SEC. 12. Provided that no school shall be permitted to charge for work done by any student who has not completed fifty per cent (50%) of the required number of hours, as provided in Section 11, Subsection (a).

SEC. 13. No school for training in the art of beauty culture after the passage of this Act shall accept as a student any per-

son under sixteen (16) years of age, nor any person who cannot read and write the English language, nor any person who is addicted to the use of drugs or narcotics or intoxicating liquor, nor any person who is afflicted with any communicable disease.

SEC. 14. Non-resident hairdressers or cosmetologists and graduates of licensed schools may only apply for examination under the Act upon the payment of the examination and license fee and shall have served the required time as a student or have been engaged in the practice of hairdressing and cosmetology for two (2) years in a State having requirements equal to the requirements as provided in this Act.

SEC. 15. (a) If an applicant for examination passes such examination to the satisfaction of the Board and in accordance with the rules promulgated by said Board, the Board shall issue a certificate to that effect, signed by the President and Secretary and attested with its seal. Such certificate shall be evidence that the person to whom it is issued is entitled to follow the practices, occupation, or occupations stipulated therein, as prescribed in this Act. Such certificates shall be conspicuously displayed in his or her place of business or employment, provided however, that where the applicant is a graduate of some school of beauty culture duly licensed and recognized, then such applicant after passing an examination as provided for in Section 9 shall be given a certificate.

(b) Any person who prior to the passage of this Act was studying any of the classified occupations shall be credited with the time of study, provided however, that application for such credit is filed with the Secretary of the Board within ninety (90) days after the taking effect of this Act.

SEC. 16. (a) All persons who were engaged in the actual practice of hairdressing and/or cosmetology within the State for more than twelve (12) months prior to the passage of this Act shall be entitled to a certificate without examination upon the payment of a registration fee of Three Dollars (\$3) accompanied by an affidavit certifying to the fact that such person was actually so engaged for the period aforementioned.

(b) Each application for examination to the State Board shall be accompanied by a cashier's check or post office money order for the sum of Ten Dollars (\$10).

SEC. 17. Each applicant to conduct a beauty parlor as defined in this Act, shall accompany such application with a cashier's check or post office money order for Ten Dollars (\$10), and the certificate issued such applicant shall entitle the person to practice the occupation or occupations of hairdressing, or cosmetology, provided he or she can meet the requirements for such practice as stipulated in Sections 15 (a) and 16 (a), and each application for registration as an operator to work in any beauty parlor shall be accompanied by a cashier's check or post office money order for Ten Dollars (\$10), and each application for registration to work as manicurist shall be accompanied by a

cashier's check or post office money order for Five Dollars (\$5), and each application for registration and examination as an instructor shall be accompanied by a cashier's check or post office money order for Ten Dollars (\$10).

SEC. 18. The first certificate of registration and license shall be valid until August 31, 1936. Thereafter no certificate or license shall be issued for a longer period than one (1) year and shall expire on the 31st day of August, of the year for which they are issued unless renewed prior to that date. The holder of an expired certificate or license may have said certificate or license restored within one (1) year after the date of expiration, upon the payment of the required renewal fee and satisfactory proof of his or her qualifications to resume practice.

(a) The annual license fee for conducting a beauty parlor shall be the sum of Five Dollars (\$5), provided, however, that in event any beauty parlor is conducted and operated by one (1) person only, then and in that event no fee shall be charged for conducting such beauty parlor, but the operator thereof shall be liable only for the Three Dollars (\$3) annual registration fee hereinafter provided, and the annual license fee for operators to work at the trade or practice of beauty culture shall be the sum of Three Dollars (\$3) and the annual registration fee for manicurists shall be Two Dollars and fifty cents (\$2.50), and the annual registration fee for an instructor shall be Ten Dollars (\$10) and the annual registration fee to conduct a beauty school shall be One Hundred Dollars (\$100).

SEC. 19. The said Board created by this Act shall have the power to revoke or suspend certificates provided in this Act, when the registrant or licensee shall have been convicted of having violated any of the provisions of this law or shall have been convicted of a felony or shall have been convicted of drunkenness or of any offense in either the State or Federal Court involving the illegal use, sale or transportation of intoxicating liquor or narcotic drugs, and any person so charged shall have the right of trial by jury in the county or district where such offense is alleged to have been committed before the revocation or cancellation of such license shall become effective.

(a) The Board may refuse to grant a certificate to any person who shall fail to make a grade of seventy-five (75) in all subjects upon which they are examined, or to any person guilty of fraud in passing the examination and obtaining a certificate of authority to operate under the provisions of this Act at any time, or if such person shall be found guilty of a felony, or gross immorality or unprofessional or dishonest conduct, or should such person become addicted to the use of drugs or the habitual use of intoxicating liquor to such an extent as to render him or her unfit to practice in any of the occupations classified under this Act, and the Board shall further have authority to refuse to issue a permit or to cancel a permit issued to any one advertising by means of knowingly false and deceptive statements and for

their failure to display the certificates as provided for in this Act.

(b) The license of an operator shall not be suspended or revoked by the Board without a trial de novo. The accused shall have a trial in the District Court of the county of her residence.

SEC. 20. Should any person who had made proper application for a certificate to practice under this Act and paid the fees provided for therein be refused such certificate, or in the case any such certificate shall be revoked or suspended, such person shall have the right to appeal to the Board for a hearing, and such hearing shall be conducted in accordance with the established rules of law for hearing and determination of civil suits in the State of Texas, and if the party so aggrieved shall be dissatisfied with the determination of such suit with the Board, they may then in such event appeal to the District Court of the county of her residence where a trial shall be had de novo.

SEC. 21. Nothing in this Act shall prohibit service in case of emergency or domestic administration nor service by person authorized under the laws of this State to practice medicine, surgery, dentistry, chiropody, osteopathy, registered nurses, nor service by a licensed barber, engaged in the usual and ordinary duties of their vocations, and nothing herein contained shall be construed to mean that a barber, working in a beauty shop in the capacity of a hair cutter only, shall be subject to the provisions of this Act. Provided that any person who works in a beauty shop in the capacity of a hair cutter shall be a licensed barber and any person who works in a barber shop in the capacity of a hairdresser or cosmetologist as herein defined shall be licensed as a hairdresser or cosmetologist.

SEC. 21-a. Nothing in this Act shall be construed so as to prevent bona fide salesmen from demonstrating any preparations herein referred to.

SEC. 22. (a) Any and all sums of money paid into the State Treasury and credited to the State Board of Hairdressers and Cosmetologists fund shall be, and the same are hereby appropriated for the fiscal years ending on August 31, 1935, and August 31, 1936, to be expended under the direction of the Board, for the purpose of paying the expenditures herein authorized and any balance remaining in said State Board of Cosmetologists Fund at the end of each fiscal year shall revert to and be transferred into the General Revenue Fund.

(b) On August 31st of each year the Board shall file with the State Comptroller its annual report in such form as may be required by the Comptroller.

(c) That three (3) per cent of all moneys received by the State Board of Cosmetologists shall be paid into the General Revenue Fund of the State of Texas at the end of each fiscal year.

SEC. 23. Any person, firm, copartnership, association, or corporation who shall violate any of the provisions of this Act shall

be guilty of a misdemeanor and upon conviction shall be fined not to exceed One Hundred Dollars (\$100), or shall be confined in the county jail for not more than ninety (90) days, or both, and each and every day of violation shall be construed as a separate offense.

SEC. 24. Should any section, clause, or paragraph of this Act be held unconstitutional, the same shall not affect any other clause, section, sentence, or paragraph and any other section, sentence, or paragraph not affected by such holding shall remain in full force and effect.

SEC. 25. All laws or parts of laws in conflict herewith are hereby repealed.

SEC. 26. The fact that there is no law regulating the practice of Hairdressing and Cosmetology, and the further fact that the public is daily exposed to disease due to insufficient care as to sanitation and hygiene, and that the passage of this law will protect the public from inexperienced and unscrupulous beauty parlors and beauty culture schools create an emergency and an imperative public necessity requiring that the Constitutional Rule which requires bills to be read on three several days be suspended, and such Rule is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

[NOTE.—H. B. No. 189 passed the House, March 19, 1935, by a vote of 106 yeas, 14 nays; House concurred in Senate amendments April 25, 1935, by a vote of 104 yeas, 21 nays; passed the Senate, with amendments, April 12, 1935, by a vote of 20 yeas, 3 nays.]

Approved April 30, 1935.

Effective 90 days after adjournment.